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OGC 60-0832(a)

OGC HAS REVIEWED.

CONFIDENTIAL

10 September 1960

MEMORANDUM FOR: Comptroller

SUBJECT : Reclaim of Per Diem []

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REFERENCE : Memorandum to Office of General Counsel from
Comptroller, dated 14 June 1960, Same Subject

1. You have requested the opinion of this Office as to the legality of honoring a reclaim for per diem by Mr. [] It appears that he was traveling in a foreign country on TDY, accompanied by his wife (not an employee), and that they were guests in the rental quarters of a Chief of Station which were so-called "organization quarters," the lease of which had been taken over by the Agency pursuant to [] The Finance Division suspended payment of per diem for the period in question on the ground that Government quarters were occupied by both Mr. [] and his wife. In connection with the reclaim, you have also requested our opinion as to the applicability of a decision by this Office and one by the Comptroller General, both as they affect quarters leased under the provisions of []

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2. Office of General Counsel Opinion 7-0324a, dated 6 August 1957, directed to the Special Assistant to the Deputy Director (Support), held inter alia, with regard to the [] that "quarters which are ostensibly privately leased but which have had the lease taken over by the Agency covertly should be considered Government quarters and per diem reduced accordingly." Acting Chief, Finance Division has stated that this principle has been followed by the Finance Division whenever it has been known that Government quarters have been occupied by an Agency employee traveling on official business. You have requested specific advice as to whether so-called [] or organization quarters are properly to be treated in all cases as Government quarters. Mr. [] contends our opinion was for application only to the [] We consider the opinion in question at the time it was written was valid, and still is valid, for any geographical location. Accordingly, Finance Division may properly make the regulatory deduction from Mr. [] per diem on the basis of his having occupied Government quarters.

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DOC 8	REV DATE 14-5-81	BY []
ORIG COMP []	CPI 38	TYPE []
ORIG CLASS 5	PAGES 2	REV CLASS C
JUST 22	NEXT REV 2011	AUTH: HR 10-2

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3. You have inquired whether there may be considered applicable the Comptroller General's decision reported at 39 Comp. Gen. 117 (B-140061) pertaining to a non-employee wife who, with her husband, occupied regular Government transient quarters overseas. The Comptroller General held there that an appropriate deduction would have to be made for the wife inasmuch as Government lodging could not be furnished to private persons without charge. We have been advised that this decision is to be considered applicable to its precise factual situation, i.e., to those cases where the wife occupies transient Government quarters. It is not therefore applicable to the [] case.

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4. However, the Comptroller General has not ruled formally on the situations where the non-employee wife accompanying her husband stays (1) in quarters which are supplied by the Government and assigned to other Government personnel, either civilian or military and used by them as a residence; or (2) where she stays in private housing, the rental of which is paid for by an allowance furnished by the Government to civilian or military personnel, the latter being the [] situation. We have discussed this matter informally with a member of the Office of General Counsel to the Comptroller General and he assures us that it is not the desire of the Comptroller General that a charge be made in these situations for the wife. It is their feeling that to attempt to make such a charge would involve administrative problems all out of proportion to any potential benefit which the Government might receive. It was stated that this would apply to other non-employee house guests as well. Accordingly, no deduction need be made from Mr. [] per diem on account of the lodging furnished his wife.

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[]
Assistant General Counsel

cc - Deputy Director, Support
Office of Personnel
Audit Staff

Attachments (Addressee Only)
4 - Background Papers

*Orig + attachments - 10/13/60
to Finance Div.*

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